

§ 15.103

may file a response to the motion, unless the motion is made at a hearing in which case an immediate response may be required. The hearing officer may dispose of motions at a prehearing conference.

§ 15.103 Disposition of motions.

The hearing officer may not sustain or grant a motion prior to expiration of the time for filing responses thereto, but may overrule or deny such motion without waiting on a response: *Provided, however,* That prehearing conferences, hearings, and decisions need not be delayed pending disposition of motions. Oral motions may be ruled on immediately. Motions submitted to the hearing officer not disposed of in separate rulings or in his decision will be deemed denied. Oral argument shall not be held on written motions unless expressly ordered. Interlocutory appeals from rulings on motions shall be governed by § 15.123.

HEARING PROCEDURES

§ 15.110 Prehearing conferences.

(a) In any case in which it appears that such procedure will expedite the proceeding, the hearing officer may, prior to the commencement of the hearing, request the parties to meet with him or to correspond with him regarding any of the following:

- (1) Simplification and clarification of the issues;
- (2) Necessity or desirability of amendments to the pleadings;
- (3) Stipulations, admissions of fact and of the contents and authenticity of documents;
- (4) Matters of which official notice will be taken;
- (5) Limitation of the number of experts or other witnesses;
- (6) Disposal of all motions; and
- (7) Such other matters as may expedite and aid in the disposition of the proceeding.

(b) The hearing officer shall enter in the record a written summary of the results of the conference or correspondence with the parties.

§ 15.111 Purpose of hearing.

(a) The hearing is directed to receiving factual evidence and expert opinion

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testimony related to the issues in the proceeding. Argument will not be received in evidence; rather it should be presented in statements, memoranda or briefs, as determined by the hearing officer. Brief opening statements, which shall be limited to a statement of the party's position and what he intends to prove, may also be made at hearings.

(b) Hearings for the reception of evidence will be held only in cases where issues of fact must be resolved in order to determine whether the respondent has failed to comply with one or more applicable requirements of subpart A of this part. In any case where it appears from the answer of the applicant or recipient to the notice of hearing or notice of opportunity to request a hearing, from his failure timely to answer, or from his admissions or stipulations in the record that there are no matters of material fact in dispute, the hearing officer may enter an order so finding, and fixing the time for the submission of evidence by the Government for the record. Thereafter, the proceedings shall go to conclusion in accordance with subpart A of this part and the rules of this subpart. An appeal from such order may be allowed in accordance with the rules for interlocutory appeal in § 15.123.

§ 15.112 Statement of position and brief.

The hearing officer may require all parties and any intervenor to file a written statement of position or brief prior to the beginning of a hearing.

§ 15.113 Testimony.

(a) Testimony shall be given orally under oath or affirmation by witnesses at the hearing, but the hearing officer, in his discretion, may require or permit that the testimony of any witness be prepared in writing and served on all parties in advance of the hearing. Such testimony may be adopted by the witness at the hearing and filed as part of the record thereof. Unless authorized by the hearing officer, witnesses will not be permitted to read prepared testimony into the record. Except as provided in §§ 15.115 and 15.116, witnesses shall be available at the hearing for cross-examination.